

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations,
(Hamilton, Texas)

) MM Docket No. 97-174
) RM- 9146
)
)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch

REPLY COMMENTS

North Texas Broadcasting ("Petitioner") by and through counsel and pursuant to Section 1.415, 47 C.F.R. Sec. 1.415, hereby files Reply Comments in the above-captioned matter in response to Comments and Counterproposal filed by Maxagrid Broadcasting Corporation ("Maxagrid"), licensee of Station KBAE(FM), Marble Falls, Texas. Petitioner had filed a Petition for Rule Making ("Petition") in which it sought an amendment to the FM Table of Allotments adding Channel 285C3 to Hamilton, Texas. On August 8, 1997, the Commission released a Notice of Proposed Rule Making ("NPRM") proposing the requested allotment. DA 97-1659. Petitioner supports the allotment of Channel 285C3 for the same reasons previously set forth in its Petition and will apply for the channel if allotted. Maxagrid opposes the allotment contending that the Petition was defective and submits a counterproposal. As set forth in the attached Engineering Statement, Maxagrid's contentions regarding purported defects are without merit and should be rejected. With regard to the Counterproposal, Petitioner intends to respond when and if the Commission calls for comment. Maxagrid's attack on the Petition should be rejected for the following reasons:

1. In the Petition, Petitioner demonstrated that the allotment comported with all of the

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Commission's technical requirements and that it would serve the public interest by providing Hamilton, the county seat of Hamilton County, with its first FM service. Maxagrid is correct in pointing out that Hamilton is currently served by Station KLCW(AM) a matter which was duly noted in the NPRM. However, Maxagrid is incorrect in contending that the Petition proposed a site restriction to the south with the intent to "hem in" Maxagrid. As shown in the attached Engineering Statement, the site restriction is north of the city. Since Maxagrid's premise is incorrect, the charges stemming therefrom are unfounded.

WHEREFORE, the premises considered, it is respectfully requested that the Notice of Proposed Rule Making be adopted and that the the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, be amended to add Channel 285C3 to the community of Hamilton, Texas.

Respectfully submitted,
NORTH TEXAS BROADCASTING



By: /s/ William D. Silva

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Its Attorneys

October 14, 1997

Certificate of Service

I hereby certify that I have, this 14th day of October, 1997, sent the foregoing Reply Comments, by first class United States Mail, postage prepaid to the following persons:

John J. McVeigh, Esquire
1818 N Street, N.W.
Suite 700
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/s/ William D. Silva
William D. Silva

North Texas Broadcasting
Engineering Reply Comments
FM Channel 285C3
Hamilton, Texas
October 1997

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STATE OF ILLINOIS)
) SS:
COUNTY OF PEORIA)

F. W. Hannel, after being duly sworn upon oath,
deposes and states:

He is a registered Professional Engineer, by
examination, in the State of Illinois;

He is a graduate Electrical Engineer, holding Bachelor
of Science and Master of Science degrees, both in Electrical
Engineering;

His qualifications are a matter of public record and
have been accepted in prior filings and appearances requiring
scrutiny of his professional qualifications;

The attached Engineering Report was prepared by him
personally or under his supervision and direction and;

The facts stated herein are true, correct, and
complete to the best of his knowledge and belief.



October 14, 1997

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North Texas Broadcasting
Engineering Reply Comments
FM Channel 285C3
Hamilton, Texas
October 1997

This firm has been retained by North Texas Broadcasting Company to prepare this Engineering Statement in support of its Reply Comments in the above captioned proceeding which seeks the allotment of FM Channel 285C3 to the community of Hamilton, Texas. The proposed allotment will provide that community with its first FM service.

In response to the NPRM issued by the Commission with regard to the assignment of FM Channel 285C3 to Hamilton, Texas, a counterproposal was filed by Maxigrid Broadcasting Corporation seeking the alternate assignment of FM Channel 285A to the small community of Meridian, Texas, and the assignment of FM Channel 285C2 to Marble Falls, Texas. That counterproposal has yet to be published by the Commission, and the technical merits of that proposal will be addressed when and if the Commission publishes the Maxigrid proposal.

What is being addressed here relates to the item defined as Section II in the Maxigrid proposal. In that section, it is claimed that somehow the initial Rulemaking filed by North Texas Broadcasting seeking a first FM assignment to Hamilton, Texas, was, by some stretch of Maxigrids imagination, designed to frustrate in some undisclosed fashion Maxigrid's heretofore unrevealed plans. In Section II of its Counterproposal, Maxigrid proceeds to make statements that are at least unsupported by any competent facts and at most outright falsehoods.

Initially, it is acknowledged that the assignment of FM Channel 285C3 to Hamilton would be a first FM service, not a first aural service. In the Commission's Notice that fact was duly noted. It is hardly significant that the proposed assignment is a first FM rather than a first local service, yet Maxigrid proceeds to paint this fact as

being somehow of paramount importance in this proceeding. That whole characterization is simply nonsense. The first FM service versus first aural service was simply corrected by the Commission in its NPRM. Since the error was very simply corrected by the Commission one must conclude that, under any reasonable interpretation, it was simply harmless error. One has to wonder what marvelous dissertation Maxigrid would produce if a really serious error, in Maxigrids opinion, was discovered in a simple rulemaking proceeding.

A far more serious misunderstanding by Maxigrid is present in the remainder of its pleading under the Section II heading. Specifically, Maxigrid claims that the site restriction applied to the requested Hamilton allotment is south of the city, and that the imposition of that site restriction is some backhanded attempt to somehow deal Maxigrid from the bottom of the deck. All these assertions are simply not true. Had Maxigrid taken a cursory engineering look at the respective co-ordinates it would have quickly and easily have discovered what the actual Petition for Rulemaking claimed. Specifically, the Petition had the following paragraph describing the proposed allotment:

"Hamilton, Texas, is located at US Atlas co-ordinates N31-42-18, W98-07-16, and FM Channel 285C3 can be allotted to the community at reference site co-ordinates N31-49-11, W98-05-18. The reference site is 13.1 km north of the city, and a transmitter operating at a power of 25 kw at 100 meters above average terrain will provide coverage to the entire community of Hamilton, Texas."

It is relatively obvious to the most casual technical observer that the reference site is north of the community. In elementary Geography one learns that increasing latitude indicates a northerly movement. Here, the latitude of the city is at N31-42-18, and the latitude of the sample site is N31-49-11, (note that the sample site has a larger latitude than the city reference). Therefore, it is clear that the sample site is north of the city, not south as is claimed by Maxigrid.

To be absolutely precise, the distance from the city to the reference site is 7.975 miles, (13.094 km), at a bearing of 13.7 degrees. Admittedly, this is 13.7 degrees east

of North, however, for allotment purposes, it is common practice to reference one of the cardinal directions to describe the location of the sample transmitter site.

It is clear that Maxigrid somehow needs to review basic geography prior to proceeding to make absolutely outrageous claims in a formal pleading. Such patently inaccurate statements add nothing to the proceeding except to embarrass the petitioner, particularly when it is so obvious that not even a cursory attempt is made to verify facts prior to writing several pages of hyperbole bases on such those false premises. On the other hand, one could claim that "Maxigrids motives are highly suspect", to paraphrase the Maxigrid petition at page 5, paragraph 5.

It somehow seems more gentlemanly to simply note that Maxigrid has made a basic error. Enough said.